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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RAMAN (RAJOO) G. PATEL, DANIEL L. WALTERS,
ARTHUR W. FRANCIS, CHRISTOPHER F. HERLEMAN,
DOUGLAS E. EKEROTH, MATTHEW M. ROHR, and
ABBY L. STEMLER

Appeal 2015-005130
Application 13/204,091
Technology Center 3600

Before ANNETTE R. REIMERS, JEREMY M. PLENZLER, and
ERIC C. JESCHKE, *Administrative Patent Judges*.

REIMERS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Raman (Rajoo) G. Patel et al. (Appellants) appeal under 35 U.S.C. § 134(a) from the Examiner's decision to reject claims 1–3, 6, 8–17, 21, and 23. Claims 5, 7, 18–20, and 22 have been withdrawn from consideration. Claim 4 has been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

CLAIMED SUBJECT MATTER

The claimed subject matter relates to a nuclear steam generator support and alignment structure. *See* Spec. ¶¶ 2, 11, Figs. 2A, 2B, 3. Claim 1, the sole independent claim on appeal, is representative of the claimed subject matter and recites:

1. A nuclear steam generator support and alignment structure for supporting a steam generator from a floor or an internal wall of a nuclear containment and aligning an inlet and an outlet of the steam generator with a corresponding outlet and inlet on a main reactor coolant loop component, comprising:
 - a substantially rigid support fixture extending from the floor or internal wall of the nuclear containment and attached to at least two spaced locations around a circumference of the steam generator to support an entire weight of the steam generator, the substantially rigid support fixture including;
 - a base supported from the floor or internal wall;
 - a support section attached to the at least two locations around the circumference of the steam generator; and
 - a drive mechanism for raising, lowering or rotating the support section relative to the base in incremental movements, with the steam generator secured within the support section and the drive mechanism supported between the base and the support section, the drive mechanism, on command of an operator, is operable to raise, lower and rotate the support section to align the steam generator with a corresponding connection of a primary coolant piping system of a reactor.

REJECTIONS^{1, 2}

- I. Claims 1, 2, 3, 6, 9, and 21 stand rejected under 35 U.S.C. § 112, first paragraph, for lack of written description.
- II. Claims 1, 2, 3, 6, 9, and 21 stand rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness.
- III. Claim 1 stands rejected under 35 U.S.C. § 101 for encompassing a human organism.
- IV. Claims 1–3, 6, 8–17, 21, and 23 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Van Sickel (US 3,716,451; iss. Feb. 13, 1973), Chavez (US 5,307,386; iss. Apr. 26, 1994), and Ling (US 5,752,834; iss. May 19, 1998).
- V. Claims 1–3, 6, 8–10, 21, and 23 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Van Sickel and Ling.³

¹ Throughout the decision, we refer to the Final Office Action mailed September 8, 2014 (hereinafter “Final Act.”), the second subsequent Answer mailed March 12, 2015 (hereinafter “Ans.”), the Appeal Brief filed October 22, 2014 (hereinafter “Appeal Br.”), and the second subsequent Reply Brief filed March 31, 2015 (hereinafter “Reply Br.”).

² The Examiner has withdrawn the following rejections: (1) the rejections of claims 1 and 8 under 35 U.S.C. § 112, first paragraph, for lack of enablement and (2) the rejection of claims 4, 8, 10–17, and 21 under 35 U.S.C. § 112, second paragraph, for indefiniteness. *See* Ans. 16.

³ The Examiner designated this rejection as a New Ground of Rejection in the Answer. *See* Ans. 13.

ANALYSIS

Written Description

Claims 1, 2, 3, 6, 9, and 21

The Examiner determines that “[t]he specification and the drawings contain no mention of the ‘drive mechanism’ recited in the claims.” Final Act. 4; *see also* Ans. 4.

Compliance with the written description requirement set forth in the first paragraph of 35 U.S.C. § 112 does not require that the claimed subject matter *be described identically* in the Specification, but the disclosure as originally filed must convey to those skilled in the art that applicant had invented the subject matter later claimed. *In re Kaslow*, 707 F.2d 1366, 1375 (Fed. Cir. 1983); *see also* Appeal Br. 8.

Appellants’ Specification describes that

the hydraulic members [44, 48] connected to the upper support frame 34 may be utilized to maneuver the steam generator into the desired position in alignment with the primary coolant piping. In this regard, the vertical hydraulic members 48 may be activated to lower or raise the steam generator 18. . . . the vertical hydraulic members 48 support the upper support frame 34 and are attached to the support ring 46. The lateral hydraulic members 44 may then be activated to maneuver the steam generator in the X-Y direction. In the exemplary embodiment shown in Figures 2-6, each lateral hydraulic member 44 is positioned adjacent and connected to a saddle 38 and each of the saddles are connected to the support ring 46 at circumferentially spaced locations. The lateral hydraulic member 44 can thus force the support ring 46 to change position. Forcing the support ring 46 to change position as a result of the activation of the lateral hydraulic member 44 causes the upper support frame to change position in an X-Y plane.

Spec. ¶ 39, Figs. 2–6; *see also id.* ¶ 36. Upon review of Appellants’ Specification, a skilled artisan would recognize that hydraulic members 44,

48 represent the “drive mechanism” recited in the claims. *See* Appeal Br. 8.

Accordingly, we do not sustain the Examiner’s rejection of claims 1, 2, 3, 6, 9, and 21 for lack of written description.

Drawing Objection

The Examiner also objected to Appellants’ drawings under 37 C.F.R. § 1.83(a) on the grounds that “[t]he drawings must show every feature of the invention specified in the claims. Therefore, the ‘drive mechanism’ of claims 1, 2, 3, 6, 9, and 21 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.” Final Act. 8; *see also* Ans. 3. Ordinarily, an objection is reviewable by petition under 37 C.F.R. § 1.181 and a rejection is appealable to the Patent Trial and Appeal Board. When the issue of new matter presented is the subject of both an objection and a rejection, the issue is appealable. *See Manual of Patent Examining Procedure* § 608.04(c) (9th ed., Rev. 07.2015, Nov. 2015) (providing that “where the alleged new matter is introduced into or affects the claims, thus necessitating their rejection on this ground, the question becomes an appealable one, and should not be considered on petition even though that new matter has been introduced into the specification also”). To the extent that the objection to the drawings in the Final Office Action turns on the same issue(s) as the rejection under 35 U.S.C. § 112, first paragraph, our decision with respect to the rejection is dispositive as to the corresponding objection.

Indefiniteness

Claims 1, 2, 3, 6, 9, and 21

Independent claim 1 recites “a drive mechanism for raising, lowering or rotating the support section relative to the base in incremental movements.” Appeal Br. 21 (Claims App.). The Examiner determines that “[t]he term ‘drive mechanism’ in claims 1, 2, 3, 6, 9, and 21 is indefinite” and that “[t]he claim appears to invoke [35 U.S.C. § 112, sixth paragraph,] by coupling the generic placeholder ‘drive mechanism for’ with functional language ‘raising, lowering, or rotating.’ The specification does not contain sufficient structure to define the generic placeholder, drive [mechanism], and the term is therefore indefinite.” *See* Final Act. 5–6; *see also* Ans. 5–7.

To the extent “drive mechanism” is a means-plus-function limitation subject to 35 U.S.C. § 112, sixth paragraph, Appellants’ Specification (¶¶ 36, 39) and drawings (Figs. 2–6) adequately describe sufficient structure to define the drive mechanism for performing the functions of the claims. We agree with Appellants that although the term “drive mechanism” is “not explicitly set forth in the specification, the structure for carrying out its function as described in Claim 1 is described in the specification in enough detail that one with ordinary skill in this art would know how to construct and practice the stated function.” Appeal Br. 10.

Moreover, Appellants dispute that “drive mechanism” invokes 35 U.S.C. § 112, sixth paragraph.⁴ Appellants, however, do not explain specifically how “the claim [is] understood by persons of ordinary skill in the art to have a sufficiently definite meaning as the name for structure.”

⁴ *See* Original Reply Br. 6 (filed January 8, 2015).

Williamson v. Citrix Online, LLC, 792 F.3d 1339, 1348 (2015). With no specific structure noted by Appellants, and applying the broadest reasonable interpretation without reading “drive mechanism” as a means-plus-function limitation, we broadly construe “drive mechanism” as any mechanical system that would provide the recited “raising, lowering or rotating [of] the support section relative to the base in incremental movements.”

The Examiner further determines that “[t]he term ‘incremental’ in claim 1 is a relative term which renders the claim indefinite.” Final Act. 6. According to the Examiner, “[t]he term ‘incremental’ is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.” *Id.*

Appellants correctly point out that “[w]hen a term of degree or a relative term is recited in a claim, the first determination is whether the specification provides some standard for measuring that degree.” Appeal Br. 11 (internal citation omitted). We agree with Appellants that paragraph 37 of the Specification provides the standard for ascertaining the requisite degree and upon review of that paragraph a skilled artisan would reasonably be apprised of the scope of the subject invention. *See id.*

Accordingly, for the foregoing reasons, we do not sustain the Examiner’s rejection of claims 1, 2, 3, 6, 9, and 21 for indefiniteness.

Human Organism

The Examiner determines that “[a]n ‘operator’ in the nuclear arts is a human. Therefore, claim 1 is directed to a system comprising a human being.” Final Act. 9; *see also* Ans. 7. We agree with Appellants that “a human organism” is not claimed and that the recited “on command of an

operator” “define[s] the function of the apparatus in response to an operator input.” *See* Appeal Br. 12.

Accordingly, we do not sustain the Examiner’s rejection of claim 1 for encompassing a human organism.

Obviousness over Van Sickel, Chavez, and Ling

Claims 1–3

Appellants do not offer arguments in favor of dependent claims 2 and 3 separate from those presented for claim 1. *See* Appeal Br. 12–16. We select claim 1 as the representative claim, and claims 2 and 3 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(iv).

Appellants contend that Chavez “add[s] no relevant teaching to” Van Sickel. Appeal Br. 13.

In this case, the Examiner finds that “Van Sickel does not disclose a gimbaled attachment of the steam generator to the support structure.” Final Act. 10; *see also* Ans. 8. The Examiner relies on Chavez for “teach[ing] the use of such a connection.” Final Act. 10; *see also* Ans. 8. In particular, the Examiner finds that “Chavez teaches a pump motor (31) that can be suspended from saddles (105) through trunnions (85) at two spaced locations.” Final Act. 10 (citing Chavez 5:19–21, Figs. 3, 8a, 8c); *see also* Ans. 8. The Examiner reasons that

such a combination is applying a known technique (the gimbal/trunnion connection of Chavez) to a known device (the steam generator support structure of Van Sickel), yielding predictable results: the ability for the steam generator to self-level (via rotation around the axis defined by the diametrically opposed trunnions of Chavez) under the influence of gravity.

Final Act. 10–11; *see also* Ans. 8. The Examiner’s findings and conclusions are supported by the record and based on rational underpinnings. “The

combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007); *see also* Final Act. 11; Ans. 8. “If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability.” *KSR*, 550 U.S. at 417.

Appellants have made no attempt to point out where the Examiner’s findings relative to the presence of the “gimbaled attachment” in Chavez or the combined teachings of Van Sickel and Chavez is deficient. In other words, Appellants’ argument is insufficient to apprise us of error in the rejection.

Appellants contend that the Examiner’s proposed modification of Van Sickel with the teachings of Ling “would completely change its principle of operation” of Van Sickel. Appeal Br. 14, 16; *see also* Reply Br. 3. In particular, Appellants contend that

[w]hile the device [of Ling] can provide movement with six degrees of freedom between two parallel plates, it is not clear how such a simulator could be applied to the steam generator support of [Van Sickel]. If the simulator of Ling was inserted between the support structure 44 of [Van Sickel] and a base attached to the floor (25) of the containment, it would make the steam generator support unstable. While, possibly such an arrangement might be able to impart some movement to the steam generator, *e.g.*, tilt the bottom of the steam generator, such movement would appear to make the steam generator strain against its piping connections and it is not clear that the steam generator could be moved from side to side or up and down due to the restraints of the snubbers that are attached to the containment floor. . . . Furthermore such an arrangement could not provide the fine, controlled movement needed to align the generator with its piping connections.

Appeal Br. 13–14; *see also* Reply Br. 3.

At the outset, we note that claim 1 does not recite that “align[ing] the generator with its piping connections” requires “fine, controlled movement.” *See id.*; *see also* Appeal Br. 21 (Claims App.). Limitations not appearing in the claims cannot be relied upon for patentability. *In re Self*, 671 F.2d 1344, 1348 (CCPA 1982). Van Sickel discloses that the hydraulic snubbing assemblies 53, 54, and 55 “*permit motion* for thermal expansion of the reactor coolant piping **36** from the reactor vessel **22** to the steam generator **32**.” Van Sickel 6:48–51 (emphasis added); *see also id.* at 5:1; Final Act. 11–12; Ans. 8–9, 19. As such, we disagree with Appellants that the snubber assemblies of Van Sickel “restrain rather than impart movement.” Reply Br. 2; *see also* Appeal Br. 14, 18. Moreover, in response to Appellants’ argument, the Examiner states that

the structure of Van Sickel supports a nuclear steam generator, and the addition of the 6DOF [degrees of freedom] platform of Ling to actuate the alignment of the entire support structure of Van Sickel with its surrounding components would not, as [Appellants] allege[], change the principle of operation of Van Sickel. The combination with Ling does nothing to destroy the support function nor the passive shock absorbing capabilities described in column 6, lines 37-59 [of Van Sickel]. The combination simply imparts the function taught by Ling (Abstract: “object interaction”) to the support structure of Van Sickel.

Ans. 19. Appellants do not apprise us of Examiner error. *See* Reply Br. 3.

Appellants contend that the Examiner fails to provide reasoning with some rational underpinning to combine Van Sickel, Chavez, and Ling.

Appeal 15, 16. In particular, Appellants contend that

[t]he Examiner asserts that such a combination is an example of applying a known technique to a known device to achieve a predictable result. However, in this instance, that is not a rational underpinning considering the separate teachings of the

references and the objective to be achieved by this invention. A result from combining the teachings of the references to manipulate a steam generator into alignment with its primary loop connections, other than a disaster, would definitely not be predictable.

Id. at 15.

At the outset, Appellants' contention that "combining the teachings of the references to manipulate a steam generator into alignment with its primary loop connections" would result in "a disaster" amounts to unsupported attorney argument, and thus, is entitled to little, if any, weight. Appeal Br. 15. *See In re De Blauwe*, 736 F.2d 699, 705 (Fed. Cir. 1984) (Arguments and conclusions unsupported by factual evidence carry no evidentiary weight). Moreover, it is well established that the reason to modify the reference may often prompt a person of ordinary skill in the art to do what the inventor has done, but for a different purpose or to solve a different problem. It is not necessary that the prior art suggests the combination to achieve the same advantage or result discovered by an applicant. *In re Kahn*, 441 F.3d 977, 987–88 (Fed. Cir. 2006).

In this case, the Examiner finds that "Chavez teaches that attaching the steam generator to the support structure of Van Sickel via a gimbal/trunnion attachment" and reasons that such an attachment "is advantageous (the combination provides self-leveling through gravity)." Final Act. 12; *see also id.* at 10–11; Ans. 8–9. The Examiner further finds that "Ling teaches that disposing a hydraulically-actuated 6-DOF [degrees of freedom] platform between the support structure and the base/floor of Van Sickel [and Chavez]" and reasons that such a combination "is an improvement (the combination provides seismic isolation coupled with enabling interaction of the steam generator with other reactor components)."

Final Act. 12; *see also id.* at 10–11; Ans. 8–9, 19. The Examiner’s findings and conclusions are supported by the record and based on rational underpinnings. Appellants do not provide persuasive evidence or argument apprising us of Examiner error.

Appellants further contend that the Examiner engages in impermissible hindsight in combining the references. Appeal Br. 15. We are not persuaded. The Examiner cites specific teachings in the references themselves, not Appellants’ disclosure, in support of the Examiner’s articulated reasoning for combining the references as proposed in the rejection. *See* Final Act. 10–12; *see also* Ans. 8–9.

Appellants contend that none of the references “teach the alignment of a steam generator while it is being installed in a nuclear plant, nevertheless the fine movement required for that purpose when considering the large mass that has to be manipulated to achieve that objective” or “contemplate the fine movement of the supports that they describe, in incremental steps for the purpose of the aligning the substantially large mass of a steam generator.” Appeal Br. 14–16.

We are not persuaded because claim 1 does not require “alignment of a steam generator *while it is being installed in a nuclear plant*” or “fine movement” “for the purpose of the aligning” the steam generator. *Id.* (emphasis added); *see also* Appeal Br. 21 (Claims App.); *In re Self*, 671 F.2d at 1348.

Accordingly, for the foregoing reasons, we sustain the Examiner’s rejection of independent claim 1 as unpatentable over Van Sickel, Chavez, and Ling. We further sustain the rejection of claims 2 and 3, which fall with claim 1.

Claim 6

Appellants contend that “none of the references teach apparatus capable of aligning a steam generator for connection to the primary loop piping system of a reactor that has a capability of fine incremental movements.” Appeal Br. 17.

In response to Appellants’ argument, the Examiner finds that

Ling discloses an alignment platform capable of fine movement (it provides the motions of the Stewart platform; see column 3, lines 31-45 and column 4, lines 5-10). Because the Stewart platform is capable of any “computer-controlled motion,” the platform of Ling is therefore capable of the “incremental movements” of claim 1 and the “fine movement” of claim 6. One of ordinary skill in the art at the time of the invention would have recognized that such motion would be defined by the input to the computer of the Stewart platform and therefore the computer associated with the invention of Ling.

Ans. 20. The Examiner’s findings and conclusions are supported by the record and based on rational underpinnings. Appellants do not apprise us of Examiner error.

Accordingly, we sustain the Examiner’s rejection of dependent claim 6 as unpatentable over Van Sickel, Chavez, and Ling.

Claims 8, 9, 21, and 23

Appellants, at most, recite the limitations of claims 8, 9, 21, and 23 and allege that the combined teachings of Van Sickel, Chavez, and Ling do not disclose them. Appeal Br. 17, 19. These statements do not constitute separate arguments for patentability of the claims under 37 C.F.R.

§ 41.37(c)(1)(iv); *see In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011) (holding that the Board had reasonably interpreted 37 C.F.R.

§ 41.37(c)(1)(iv) as requiring “more substantive arguments in an appeal brief

than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art”). Appellants’ statements do not specifically address the Examiner’s findings, much less explain why the findings are in error. Therefore, we are not persuaded that the Examiner erred in rejecting these claims as unpatentable over Van Sickel, Chavez, and Ling.

Accordingly, we sustain the Examiner’s rejection of dependent claims 8, 9, 21, and 23 as unpatentable over Van Sickel, Chavez, and Ling.

Claim 10

Appellants contend that “there is no rational underpinning for the reasoning offered to support combining the teachings of [Van Sickel, Chavez, and Ling] to render the limitations of Claim 10 obvious.” Appeal Br. 18. In this case, the Examiner finds that “Van Sickel shows a lower support section (44) connected to a base (63, 70), which rests on a floor (25).” Final Act. 13; *see also* Ans. 11; Appeal Br. 17–18. The Examiner concludes that “one of ordinary skill in the art at the time of the invention would have found it obvious to dispose the lower support section below the base because rearrangement of parts with no modification of the operation of the device has no patentable significance.” Final Act. 13 (internal citation omitted); *see also* Ans. 11. Moreover, in response to Appellants’ argument, the Examiner states that “the claims recite no structural limitations that indicate the alignment structure (of Ling) must be separable from the support structure of Van Sickel in order for it to be removed from containment.” Ans. 21. Appellants do not apprise us of Examiner error.

Accordingly, for the foregoing reasons, we sustain the Examiner's rejection of dependent claim 10 as unpatentable over Van Sickel, Chavez, and Ling.

Claim 11

Appellants contend that “[n]either [Van Sickel, Chavez, nor Ling] support the steam generator from an upper support section.” Appeal Br. 18. Here, the Examiner finds that Chavez “teaches a load (31) substantially supported from at least two substantially diametrically opposed lift links (85 connected to 105; see Figures 3, 8a, and 8c and column 5, lines 19-21).” Final Act. 13–14; *see also* Ans. 11. The Examiner concludes that it would have been

obvious to substantially support the steam generator (32) [of Van Sickel] bearing load by the upper support section (52) from at least two substantially diametrically opposed lift links on the side of the steam generator, because such a combination is applying a known technique (the gimbal/trunnion connection of Chavez) to a known device (the steam generator support structure of Van Sickel), yielding predictable results: the ability for the steam generator to self-level (via rotation around the axis defined by the diametrically opposed trunnions of Chavez) under the influence of gravity.

Final Act. 14; *see also* Ans. 11. The Examiner's findings and conclusions are supported by the record and based on rational underpinnings. Appellants do not provide persuasive evidence or argument apprising us of Examiner error.

Accordingly, we sustain the Examiner's rejection of dependent claim 11 as unpatentable over Van Sickel, Chavez, and Ling.

Claims 12–17

Appellants do not offer arguments in favor of dependent claims 13–17 separate from those presented for claim 12. *See* Appeal Br. 18.⁵ We select claim 12 as the representative claim, and claims 13–17 stand or fall with claim 12. 37 C.F.R. § 41.37(c)(1)(iv).

Appellants contend that “[w]hile [Van Sickel] provides hydraulic snubbers, they operate to restrain movement rather than to impose lateral movement on the generator” and that “[n]either [Chavez] or Ling has an upper support section that is supported upon at least four points on a wall by a lateral hydraulic member.” Appeal Br. 18 (emphasis omitted).

As discussed above, Van Sickel discloses that the hydraulic snubbing assemblies 53, 54, and 55 “*permit motion* for thermal expansion of the reactor coolant piping **36** from the reactor vessel **22** to the steam generator **32**.” Van Sickel 6:48–51 (emphasis added); *see also id.* at 5:1; Final Act. 11–12; Ans. 8–9, 19. As such, we disagree with Appellants that the snubber assemblies of Van Sickel “restrain rather than impart movement.” Reply Br. 2; *see also* Appeal Br. 14, 18. Further, the Examiner finds that “Van Sickel . . . discloses a nuclear steam generator support and alignment structure wherein the steam generator is at least partially surrounded by the internal wall and the upper support section is supported upon at least four points on the wall (See Figure 3, reference 40 and column 5, lines 45-67).” Final Act. 14; *see also* Ans. 11–12. Appellants do not apprise us of Examiner error.

⁵ Appellants present a similar argument for claim 15 as for claim 12. *See* Appeal Br. 19 (“As previously stated, neither of the references teach an upper support having movement implemented by hydraulic members”).

Accordingly, for the foregoing reasons, we sustain the Examiner's rejection of dependent claim 12 as unpatentable over Van Sickel, Chavez, and Ling. We further sustain the rejection of claims 13–17, which fall with claim 12.

Obviousness over Van Sickel and Ling⁶

Claims 1–3

Appellants do not offer arguments in favor of dependent claims 2 and 3 separate from those presented for claim 1. *See* Reply Br. 1–3. We select claim 1 as the representative claim, and claims 2 and 3 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(iv).

Appellants contend that “the Examiner has not identified what the Examiner considers to be the base, which we can only presume is the floor (25). However, Claim 1 defines the base to be a separate element from the floor.” Reply Br. 3. In this case, the Examiner finds that Van Sickel discloses a “substantially rigid support fixture [(44)] including *a base* (63, 70) supported from the floor [(25)] or internal wall.” Ans. 13 (emphasis added). Appellants do not apprise us of Examiner error.

Appellants present additional arguments similar to those discussed above, namely (1) the snubber assemblies of Van Sickel “restrain rather than impart movement” and (2) modifying Van Sickel with Ling would change Van Sickel's “principle of operation.” *See* Reply Br. 2–3. As discussed

⁶ The Examiner states that “[i]n light of the withdrawal of the rejection of claim 1 under 35 U.S.C. §112, first paragraph for scope of enablement and the resulting broad interpretation of the claim limitation ‘two spaced locations around a circumference of the steam generator,’ the following alternate rejection for claims 1-3, 6, 8-10, 21, and 23 are presented.” Ans. 13.

above, these arguments are not persuasive. *See* Ans. 13–14, 19; *see also* Van Sickel 6:48–51.

Accordingly, for the foregoing reasons, we sustain the Examiner’s rejection of independent claim 1 as unpatentable over Van Sickel and Ling. We further sustain the rejection of claims 2 and 3, which fall with claim 1.

Claim 6

Appellants present an argument similar to that discussed above, namely that the combined teachings of Van Sickel and Ling lack “the capability of fine incremental movements” for alignment purposes. *See* Reply Br. 4. As discussed above, the Examiner provides findings and conclusions that are supported by the record and based on rational underpinnings. *See* Ans. 15, 20. Appellants do not apprise us of Examiner error.

Accordingly, we sustain the Examiner’s rejection of dependent claim 6 as unpatentable over Van Sickel and Ling.

Claims 8 and 9

Appellants do not offer arguments in favor of dependent claim 9 separate from those presented for claim 8. *See* Reply Br. 4. We select claim 8 as the representative claim, and claim 9 stands or falls with claim 8. 37 C.F.R. § 41.37(c)(1)(iv).

Appellants contend that

the Examiner has not stated what the base is. The support section of [Van Sickel] (44) is one integrated unit that extends between the steam generator and the floor, so the base would have to be the floor (25), but that is contrary to Claim 1 which requires the base to be supported from the floor (or internal wall).

Reply Br. 4.

As discussed above, the Examiner finds that Van Sickel discloses a “substantially rigid support fixture [(44)] including *a base (63, 70)* supported from the floor [(25)] or internal wall.” Ans. 13 (emphasis added).

Moreover, the Examiner clarifies that

the 6DOF [degrees of freedom] platform of Ling would be inserted between the lower support section of Van Sickel and the base of Van Sickel. Such a combination would necessarily result in the features of Ling being disposed between the support section (above the lower support section) and the base. See Figure 3 of Van Sickel: support section 52, lower support section 44, base 63/70. If the structure of Ling were disposed between 63/70 and 44, it would also separate 52 and 63/70.

Id. at 21.⁷ Appellants do not apprise us of Examiner error.

Accordingly, for the foregoing reasons, we sustain the Examiner’s rejection of dependent claim 8 as unpatentable over Van Sickel and Ling. We further sustain the rejection of claim 9, which falls with claim 8.

Claim 10

Appellants present an argument similar to that discussed above, namely that the Examiner fails to provide reasoning with rational underpinning that “render the limitations of Claim 10 obvious” over the combined teachings of Van Sickel and Ling. Reply Br. 4–5. Appellants’ argument is not persuasive. Similar to that discussed above, Appellants do not apprise us of Examiner error. *See* Ans. 13, 16, 21.

Accordingly, we sustain the Examiner’s rejection of dependent claim 10 as unpatentable over Van Sickel and Ling.

⁷ The Examiner refers to claim 6 rather than claim 8. Ans. 21. We consider this a typographical error.

Claims 21 and 23

Appellants, at most, recite the limitations of claims 21 and 23 and allege that the combined teachings of Van Sickel and Ling do not disclose them. Reply Br. 5. These statements do not constitute separate arguments for patentability of the claims under 37 C.F.R. § 41.37(c)(1)(iv); *see In re Lovin*, 652 F.3d at 1357. Appellants' statements do not specifically address the Examiner's findings, much less explain why the findings are in error. Therefore, we are not persuaded that the Examiner erred in rejecting these claims as unpatentable over Van Sickel and Ling.

Accordingly, we sustain the Examiner's rejection of dependent claims 21 and 23 as unpatentable over Van Sickel and Ling.

DECISION

We REVERSE the Examiner's decision to reject claims 1, 2, 3, 6, 9, and 21 under 35 U.S.C. § 112, first paragraph, for lack of written description.

We REVERSE the Examiner's decision to reject claims 1, 2, 3, 6, 9, and 21 under 35 U.S.C. § 112, second paragraph, for indefiniteness.

We REVERSE the Examiner's decision to reject claim 1 under 35 U.S.C. § 101 for encompassing a human organism.

We AFFIRM the Examiner's decision to reject claims 1–3, 6, 8–17, 21, and 23 under 35 U.S.C. § 103(a) as unpatentable over Van Sickel, Chavez, and Ling.

We AFFIRM the Examiner's decision to reject claims 1–3, 6, 8–10, 21, and 23 under 35 U.S.C. § 103(a) as unpatentable over Van Sickel and Ling.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED